

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 264 of 1992

with

FIRST APPEAL No 748 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE M.C.PATEL

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

MUSABHAI ASMAL

Versus

SPECIAL LAND ACQUISITION OFFICER

Appearance:

1. First Appeal No. 264 of 1992
MR HB SHAH for Petitioner No. 1
MR DIPEN DESAI, ASST. GOVT. PLEADER for Respondent No. 1-2
 2. First Appeal No. 748 of 1993
MR DIPEN DESAI, ASST. GOVT. PLEADER for Petitioner No. 1
MR HB SHAH for Respondent No. 1
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CORAM : HON'BLE MR.JUSTICE M.C.PATEL

Date of decision: 22/04/2004

ORAL JUDGEMENT

1. These cross-appeals under section 54 of the Land Acquisition Act, 1894 [hereinafter referred to as the Act] read with section 96 of the Civil Procedure Code, are directed against the judgment and award dated 22.3.1991 passed by the learned Assistant Judge, Bharuch in Land Acquisition Reference No. 783 of 1987. First Appeal No. 264/92 is filed by the original claimant seeking enhanced compensation while First Appeal No. 748/93 is filed by the State challenging the additional compensation awarded by the Reference Court.

2. The land in question is situated in village Haldarva, Taluka and District Bharuch, and was acquired for the construction of Canal on Nakleshwar Division. Notification under section 4 of the Land Acquisition Act was published in the gazette on 27.9.1983, and the Land Acquisition Officer awarded compensation at the rate of Rs.120/_ per Are. The claimant sought a Reference under section 18 of the Act, and the Reference Court, after recording the evidence led by the parties, determined the market value at the rate of Rs.660/_ per Are, and passed the award accordingly.

3. As stated earlier, both the claimant and the State have filed the present appeals.

4. It appears that a number of other lands situated in the same village were acquired under the notification of the same date and for the same purpose. The Reference Court in Land Acquisition References No. 478 of 1986 to 489 of 1986 determined compensation at the rate of Rs.660/_ per Are in respect of the said lands. The claimants preferred appeals [First Appeal No. 678 of 1990 to First Appeal No. 689 of 1990] which were allowed by this Court [Coram: Ravi R. Tripathi, J.] by judgment and order dated 13.09.2002 whereby the learned Single Judge determined the market value at the rate of Rs.731/_ per Are. The learned Assistant Government Pleader has stated at the bar that the Government has acquiesced in the said decision awarding compensation at the rate of Rs.731/_ per Are. In the circumstances, the claimant in the present Reference is also entitled to compensation at the same rate since there is no feature distinguishing this land from the lands in the aforesaid group of First Appeals.

5. Accordingly, First Appeal No. 264 of 1992 filed

by the claimant is partly allowed. It is held that the claimant is entitled to get compensation at the rate of Rs.731/_ per Are instead of Rs.600/_ per Are. It is clarified that the claimant will also be entitled to other statutory benefits under the law. It is also clarified that the claimant will be entitled to interest on the solatium amount.

First Appeal No. 748/93 filed by the State is dismissed.

No order as to costs.

[M.C.PATEL, J.]

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